



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,253	09/18/2006	Michel Paquier	294504US2PCT	7025

22850 7590 12/09/2009  
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
----------

STANFORD, CHRISTOPHER J

ART UNIT	PAPER NUMBER
----------	--------------

2887

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

12/09/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/593,253	<b>Applicant(s)</b> PAQUIER, MICHEL	
	<b>Examiner</b> CHRISTOPHER STANFORD	<b>Art Unit</b> 2887	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/18/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

1. Receipt is acknowledged of the amendment filed 9/18/2006. Claims 1-27 are canceled and claims 28-54 are currently pending.

### *Claim Objections*

2. Claims 28, 30-35, 37-42, 44-45 are objected to because of the following informalities: the phrase "the marking element" lacks antecedent basis. Appropriate correction is required. For the purposes of examination, the phrase will be interpreted to reference the ***at least one marking element*** of claims 28 and 43.

3. Claims 33-34 and 54 are objected to because of the following informalities: "the identifier" lacks antecedent basis. Appropriate correction is required. For the purposes of examination, the limitation will be interpreted to mean ***an identifier***.

4. Claim 39 is objected to because of the following informalities: "on the interlayer" lacks antecedent basis. Appropriate correction is required. For the purposes of examination, the limitation will be interpreted to mean ***on an interlayer***.

5. Claim 39 is objected to because of the following informalities: "the gas-filled cavity" lacks antecedent basis. Appropriate correction is required. For the purposes of examination, the limitation will be interpreted to mean ***a gas-filled cavity***.

6. Claim 50 is objected to because of the following informalities: claim 50 is dependent on "claim 46" though it is believed that applicant intends for the claim to

Art Unit: 2887

recite “as claimed in claim 47”. Appropriate correction is required. For the purposes of examination, claim 50 will be dependent on claim 47.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 29, 38, and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each claim contains a list limitation separated by “and/or” and thus the invention does not point out which elements of the list are required. Regarding claim 29, the limitation “of numerals and/or of letters” may indicate that the invention requires either (1) numerals and letters, or (2) numerals only, or (3) letters only. Regarding claim 38, the limitation “a commercial name of the glazing unit, and/or a family of the glazing unit, and/or a type of the glazing unit” may indicate that the invention requires either (1) a commercial name, a family, and a type, or (2) a commercial name only, or (3) a family only, or (4) a type only. Regarding claim 40, the limitation “identifies characteristics of the gas-filled cavity.... and/or identifies technical characteristic of the interlayer” may indicate that the invention requires either identifying characteristics of (1) the gas-filled cavity and the interlayer, or (2) the gas-filled cavity only, or (3) the interlayer only.

***Claim Rejections - 35 USC § 101***

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 43 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of *In Re Bilski* 88 USPQ2d 1385. The instant claim is neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method for identifying a glazing unit including steps of recognizing, transmitting, and passing-on is broad enough that the claim could be completely performed mentally, verbally or without a machine. For example, reading a label may be interpreted as **recognizing the at least one marking element**, the biological processing of electrically relaying the optical interaction within the eye to the brain (i.e. identification device) may be interpreted as **transmitting a content to an identification device**, and verbally communicating the information may be interpreted as **publicly passing-on the information**.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2887

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 28-41, 43-49, and 52 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. The attached publication (hereinafter Andersen) details the history of glazing units used and sold by Andersen Windows and Doors and headquartered in Bayport, MN, products from 1970-2003 are relevant to this rejection.

Regarding claim 28, Andersen teaches a glazing unit (sheet of glass; page 7, para 1) having at least one marking element (symbols and shapes of logo, Figs. 1-8, 10-13) visible from outside (symbols and shapes of logo is visible “regardless of the position” since windows are at least semi-transparent and the label “Andersen’ is stamped on all spacers”; page 12) the glazing unit and including a string of characters (Figs. 1-8, 10-13), wherein that the at least one marking element can be visually identified by whomsoever (Figs. 1-8, 10-13) and is configured to be communicated remotely to an identification device (human mind, the Andersen telephone ordering system, and/or the Andersen catalog may be used independently or in conjunction in the Andersen reference as indicated on page 3), the identification device incorporating, for a given marking element, characteristics (manufacturer “Andersen” on page 12 and certifications, e.g. 16 CFR 1201. CII, IGCC, ANSI, etc. in Figs. 1-8, 10-13) relating to the glazing unit which are configured to be at least partly accessible to the public in exchange for the identity of the at least one marking element (page 7).

Regarding claim 29, Andersen teaches the string of characters is a combination of numerals (Figs. 1-8, 10-13) or of letters or of pictorial symbols.

Regarding claim 30, Andersen teaches the at least one marking element is configured to be recognized by a character-recognition reader equipment (the symbols and shapes of logo is configured in English alphanumeric symbols and therefore may be recognized by a character-recognition reader, e.g. a person).

Regarding claim 31, Andersen teaches the at least one marking element is communicated to the identification device by a technical communication (the symbols and shapes of logos are intended to be communicated via telephone to Andersen to identify the glazing unit or searched within the Andersen catalog, page 3).

Regarding claim 32, Andersen teaches the identification device includes a database (Andersen catalog) in which all the characteristics (e.g. IGCC number identifies the product and the plant where the product was manufactured) relating to the glazing unit are recorded in a form of a string of numbers (symbols and shapes of logos indicate certifications that relate to the characteristics, Figs. 1-8, 10-13), each number being coded on one or more successive characters of the at least one marking element (Figs. 1-8, 10-13).

Regarding claims 33, Andersen teaches the characters of the at least one marking element are a numeric or alphanumeric or binary or decimal or hexadecimal coding of a number in the identifier (Figs. 1-8, 10-13; page 7).

Regarding claim 34, Andersen teaches the at least one marking element (Figs. 1-8, 10-13; page 7) or the identifier (certification; page 7) in the identification device remains unchanged ("IGCC", Fig. 5) while corresponding characteristics (characteristics of what the IGCC certification represents) associated with the glazing unit can be

Art Unit: 2887

altered (IGCC certification was founded in 1977 and the certification process/tests change frequently).

Regarding claim 35, Andersen teaches the at least one marking element (symbols and shapes of logo, Figs. 1-8, 10-13) is affixed in perpetuity (16 CFR 1201 is a Federal regulation that has mandated that at least one certification labels be permanent on a glazing unit since 1977) to the glazing unit, or is secured to a part of the glazing unit that is inaccessible from the outside.

Regarding claim 36, Andersen teaches the same marking element (the letter “C” of “IGCC CBA”, Fig. 3, page 10) arranged at plural points on the glazing unit (Fig. 3, page 10).

Regarding claims 37 and 52, Andersen teaches information contained in the identification device and the at least one marking element identify technical characteristics that make up the glazing unit (certification as on page 7), characteristics relating to its manufacture (logo indicates manufacturing plant, Fig. 6; page 9), commercial characteristics (brand name of manufacturer, pages 9-12) and characteristics associated with its destination.

Regarding claim 38, Andersen teaches the at least one marking element identifies at least one of the following characteristics: a commercial name of the glazing unit (“Andersen” stamped on all spacers; page 12), or a family of the glazing unit (e.g. IGCC certification; page 7), or a type of the glazing unit (e.g. IGCC certification; page 7); a composition of glass in the glazing unit (IGCC certification reveals information regarding glass composition) or technical characteristics afforded by thin layers



Art Unit: 2887

deposited on the glazing unit; dimensions of the glazing unit (generally indicated by category code of IGCC code); a place of manufacture of the glazing unit (manufacturing plant, Fig. 6; page 9) a date of manufacture of the glazing unit; a first customer of the glazing unit; information associated with a first use of the glazing unit; a type of certification or of standards that the glazing unit meets (IGCC code; page 7); pecuniary information associated with the glazing unit.

Regarding claim 39, Andersen teaches the glazing unit is an insulating unit (page 7, para 2 & Fig. 9, page 10) and comprises at least two sheets of glass (Fig. 9, page 10) and at least one gas-filled cavity ("air spaces", page 10) separating the two sheets of glass, a spacing of the two sheets of glass being achieved by at least one interlayer (spacer shown in Fig. 9, page 10 and labeled in Fig. 7, page 16), and wherein the at least one marking element ("Andersen", page 12) is arranged ("stamped on all spacers") on the interlayer ("spacer") or on a face facing the gas-filled cavity (logos of Figs. 1-8, 10-13, pages 9-11). Logos of the glass panes are on a face facing the cavity since the logos are visible from either side of the window on either side of the air-filled cavity).

Regarding claim 40, Andersen teaches the at least one marking element identifies characteristics of the gas-filled cavity (cavity thickness and air spaces are tested in IGCC certification as indicated by the attached document from <http://www.igcc.org/initprocess.cfm>), including its thickness, and its composition, or identifies technical characteristics of the interlayer.

Art Unit: 2887

Regarding claim 41, Andersen teaches the at least one marking element is engraved or printed (logos of Figs. 1-8, 10-13, pages 9-11) onto an element that makes up the glazing unit.

Regarding claims 43 and 44, Andersen teaches a method for identifying (page 3) a glazing unit (page 7) including at least one marking element (logos of Figs. 1-8, 10-13, pages 9-11) visible from outside of the glazing unit and configured to be visually identifiable by whomsoever (Figs. 1-8, 10-13, pages 9-11), the method comprising: recognizing the at least one marking element (visual reading by a person looking at the glass and/or window), after the recognizing, transmitting (through the eyes to the brain) a content (characters of logos Figs. 1-8, 10-13, pages 9-11) of the at least one marking element to an identification device (human brain) that identifies the marking with an item of information (e.g. company name "Andersen"), and passing-on at least some of this information publicly (mental process augmented by verbal, written, or electronic communication of the information in the ordering and/or maintenance process).

Regarding claim 45, Andersen teaches the transmitting (e.g. identifying logo for the purpose of ordering by telephone) of the content of the at least one marking element to the identification device (human brain with access to the catalog, page 3) is performed by mail, or by telephone (page 3), or by telefax, or by electronic communications, or by the Internet.

Regarding claim 46, Andersen teaches the passing-on of the information includes listing data provided publicly (performed simply by verbally communicating the logo's contents to another individual), verbally by telephone (page 3), in writing by mail,

Art Unit: 2887

or by telefax, or by sending a message by telephone or Internet, or by displaying on an Internet site, or by displaying on any display screen connected to a communications network.

Regarding claim 47, Andersen teaches a system for identifying a glazing unit (panes, windows, doors, triple-panes as on page 7) using a marking element (logos of Figs. 1-8, 10-13, pages 9-11 & "Andersen" of page 12), affixed to the glazing unit (to the glass as on page 7 and to the spacer as on page 12) and configured to be identified from outside the glazing unit (logos on glass panes are intended to be seen after manufacturing by at least dealers, distributors, contractors as on page 3), the system having transmission means (a user's eyes and optic nerve serve as transmitting means after recognition) for transmitting recognition (visual perception in the process of reading the logo) of the at least one marking element to an identification device (the user's brain), the identification device receiving the at least one marking element (in the process of reading the logo), the at least one marking element corresponding to information configured to be rendered at least partially public (logos of Figs. 1-8, 10-13, pages 9-11 & "Andersen" of page 12); and forwarding means (at least a telephone) for passing on the information corresponding to the at least one marking element from the identification device to a reception device (a representative from Andersen who processes ordering and maintenance information).

Regarding claim 48, Andersen teaches recognition means for recognizing the at least one marking element and for reading the at least one marking element (logos are

Art Unit: 2887

readable and recognizable by at least dealers, distributors, and contractors as on page 3, Figs. 1-8, 10-13, pages 9-11 & “Andersen” of page 12).

Regarding claim 49, Andersen teaches at least one filter (the user’s brain filters relevant markings of the Andersen logo) associated with the identification device (user’s brain) so as to pass on only some of the information corresponding to the at least one marking element (information regarding the glass/window/door/etc. using the label of Fig. 5, page 9 would not require passing on of all information of the logo; for example the “AW” symbolic logo is a component of the “marking element” that is non-essential to the Andersen invention and therefore filtered out).

12. Claims 47, 50-51, and 53-54 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. The Andersen reference details the history of glazing units used and sold by Andersen Windows and Doors, headquartered in Bayport, MN, and evidence of the Andersen website ([www.andersenwindows.com](http://www.andersenwindows.com)) dating to 1996 (note the copyright date on the website) has been provided by [www.archive.org](http://www.archive.org) and is attached to this office action (hereinafter [www.andersenwindows.com](http://www.andersenwindows.com)).

Regarding claim 47, Andersen and [www.andersenwindows.com](http://www.andersenwindows.com) anticipates a system for identifying a glazing unit (panes, windows, doors, triple-panes as on page 7 of Andersen) using a marking element (logos of Figs. 1-8, 10-13, pages 9-11 & “Andersen” of page 12 of Andersen), affixed to the glazing unit (to the glass as on page 7 and to the spacer as on page 12 of Andersen) and configured to be identified from outside the glazing unit (logos on glass panes are intended to be seen after

Art Unit: 2887

manufacturing by at least dealers, distributors, contractors as on page 3 of Andersen), the system having transmission means (keyboard used to search [www.andersenwindows.com](http://www.andersenwindows.com) for windows at user-end) for transmitting recognition (visual perception in the process of reading the logo) of the at least one marking element to an identification device (computer used to search [www.andersenwindows.com](http://www.andersenwindows.com) at user end), the identification device receiving the at least one marking element (via the keyboard), the at least one marking element corresponding to information configured to be rendered at least partially public (logos of Figs. 1-8, 10-13, pages 9-11 & "Andersen" of page 12); and forwarding means (electronic communications via the Internet) for passing on the information corresponding to the at least one marking element from the identification device to a reception device (a computer at user end in connection to the [www.andersenwindows.com](http://www.andersenwindows.com) server on the other end of the internet connection).

Regarding claim 50, Andersen and [www.andersenwindows.com](http://www.andersenwindows.com) anticipates the transmission means (keyboard used to search for windows at user-end) and the forwarding means (electronic communications via the Internet) include mail or telephone, or telefax, or electronic communications means, or Internet type.

Regarding claim 51, Andersen and [www.andersenwindows.com](http://www.andersenwindows.com) anticipates the reception device includes a recording (computer memory storing [www.andersenwindows.com](http://www.andersenwindows.com) information) or viewing device (computer monitor used to navigate [www.andersenwindows.com](http://www.andersenwindows.com)).

Art Unit: 2887

Regarding claim 53, Andersen and [www.andersenwindows.com](http://www.andersenwindows.com) anticipates the information is recorded in a computer-oriented manner (via [www.andersenwindows.com](http://www.andersenwindows.com)) in a form of a string of numbers (information such as size, light transmission, relative humidity, etc. as in page 1 of the [www.andersenwindows.com](http://www.andersenwindows.com) reference), each number being coded on one or more successive characters of the marking element (a logo indicating the type of window via manufacturing date, certification, etc. encodes the information displayed on [www.andersenwindows.com](http://www.andersenwindows.com)).

Regarding claims 54, Andersen teaches the marking element is a string of characters that corresponds to a marking element are a numeric or alphanumeric or binary or decimal or hexadecimal coding of a number in the identifier (Figs. 1-8, 10-13; page 7)

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersen as applied to claim 28, and further in view of Demars et al. (WO 03/040507; hereinafter Demars). The US patent 7,332,202 B2 is used below as an English translation of the Demars reference and all citations are to the US patent.

Andersen discloses the glazing unit is laminated (triple-pane, Fig. 9, page 10) and comprises at least two sheets of glass and a metallic interlayer (page 10, para 3) arranged between the two sheets of glass (Fig. 9, page 10), the at least one marking element being affixed to the metallic interlayer (logo "Andersen" stamped on spacer as on page 12).

Andersen discloses the claimed invention as cited above though does not explicitly disclose a plastic interlayer.

Demars discloses the glazing unit (Fig. 1a) is laminated (abstract) and comprises at least two sheets of glass (glass sheets 10 & 11, Fig. 1a) and a plastic interlayer (strip 2; col. 8, ln. 42-59) arranged between the two sheets of glass, the at least one marking (col. 4, ln. 38-42) element being affixed to the plastic interlayer.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use mark a plastic interlayer as taught by Demars with the device as disclosed by Andersen. The motivation would have been to provide traceability and to improve sealing by bordering corners of the glazing unit (col. 1, ln. 21-25, col. 4, ln. 38-42, & col. 8, ln. 42-59).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER STANFORD whose telephone number is (571)270-3337. The examiner can normally be reached on Monday through Fridays , 7:30am-4:30pm.

Art Unit: 2887

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Paik can be reached on (571)272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER STANFORD/  
Examiner, Art Unit 2887

/STEVEN S. PAIK/  
Supervisory Patent Examiner, Art  
Unit 2887